

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 222

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO SPECIAL DISTRICTS; AMENDING SECTION 73-16-2 NMSA
1978 (BEING LAWS 1927, CHAPTER 45, SECTION 502) TO PROVIDE FOR
A TRAILS PROGRAM IN BERNALILLO COUNTY AND TO ASSIGN A PORTION
OF THE ASSESSMENTS OF THE MIDDLE RIO GRANDE CONSERVANCY
DISTRICT FOR THAT PURPOSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 73-16-2 NMSA 1978 (being Laws 1927,
Chapter 45, Section 502) is amended to read:

"73-16-2. PRELIMINARY FUND.--

[~~(1)~~] A. As soon as any district [~~shall have~~] has
been organized under [~~this~~] the Conservancy Act and a board
[~~shall have~~] has been appointed and qualified, [~~such~~] the board
[~~shall have~~] has the power and authority to fix the amount of a
uniform assessment upon the property within the district not to

underscored material = new
[bracketed material] = delete

1 exceed [~~six (6)~~] five and one-half mills for every dollar of
2 assessed valuation [~~thereof~~] of the property, as a level rate
3 to be used for the purpose of paying the expenses of
4 organization, of assessing benefits and damages, for surveys
5 and plans and for other incidental expenses [~~which~~] that may
6 have been incurred prior to the time when money is received
7 from the sale of bonds or otherwise.

8 [~~(2)~~] B. The [~~said~~] assessment shall be levied by
9 resolution of the board; shall be known as the preliminary fund
10 assessment; and the amount of assessment shall be certified to
11 the boards of county commissioners of the various counties in
12 which the district, or any portion [~~thereof~~] of it, is located,
13 and by them included in their next annual levy for state and
14 county purposes. [~~Said~~] The amount shall be collected for the
15 use of [~~such~~] the district in the same manner as are taxes for
16 county purposes, and the revenue laws of the state for the levy
17 and collection of taxes for county purposes, except as [~~herein~~]
18 modified by the Conservancy Act, shall be applicable for the
19 levy and collection of the amount certified by the board of
20 [~~such~~] the district as [~~aforsaid~~] provided in Subsection A of
21 this section, including the enforcement of penalties and
22 forfeiture for delinquent taxes. All collections made by the
23 county treasurer pursuant to such levy shall be paid to the
24 treasurer of the district on or before the tenth day of the
25 next succeeding calendar month, and a list of the [~~payors~~]

.174294.5

underscored material = new
[bracketed material] = delete

1 payers, the amounts paid by each and the property covered
2 [~~thereby~~] shall accompany [~~such~~] the remittance.

3 [~~(3)~~] C. If [~~such~~] the items of expense have already
4 been paid in whole or in part from other sources, they may be
5 repaid from the receipts of [~~such~~] the levy, and [~~such~~] the
6 levy may be made although the work proposed may have been found
7 impracticable or for other reasons is abandoned.

8 [~~(4)~~] D. In case the proceeds of [~~such~~] the
9 assessment, including those of any other assessment previously
10 made for the preliminary fund, [~~exceeds~~] exceed the total
11 amount of money borrowed for the preliminary fund or the amount
12 needed to complete the preliminary expenses, the surplus shall
13 be placed in the general fund of the district and used to pay
14 the cost of construction, except that the same may be refunded
15 or adjusted as [~~hereinafter~~] provided in the Conservancy Act if
16 deemed more just and so ordered by the court; provided,
17 however, that if the district [~~be~~] is dissolved, the amount of
18 surplus, if there [~~be~~] is any, shall be prorated and refunded
19 to the landowners paying [~~such~~] the assessment.

20 [~~(5)~~] E. The information collected by the necessary
21 surveys, the appraisals of benefits and damages and other
22 information and data are [~~hereby~~] declared to constitute
23 benefits for which [~~said~~] the assessment may be levied. In
24 case a district is dissolved or abandoned before the work is
25 constructed, the data, plans and estimates [~~which~~] that have

.174294.5

underscoring material = new
[bracketed material] = delete

1 been secured shall be filed with the clerk of the court in
2 which the district was organized and shall be matters of public
3 record available to anyone interested.

4 F. A board of a conservancy district that encompasses
5 a class A county of a population of five hundred thousand or
6 more according to the most recent federal decennial census
7 shall allocate a portion of the uniform annual assessment upon
8 the property within that county of one-half mill for every one
9 dollar (\$1.00) of assessed valuation thereof as a level rate to
10 be used for the exclusive purpose of establishing and
11 maintaining a trails program and related recreational benefits
12 on and adjacent to its ditches, drains and related facilities.
13 The trails program and related recreational benefits shall be
14 established within that same class A county of a population of
15 five hundred thousand or more. The county shall collect the
16 assessment and distribute the portion allocated for the trails
17 program and related recreational benefits to the operating
18 entity. As used in this subsection, "operating entity" means
19 the open space division of the largest municipality in that
20 class A county described in this section. The assessment shall
21 be allocated, collected and distributed commencing in the year
22 of the effective date of this 2009 act and continue every year
23 thereafter. The conservancy district shall not increase the
24 uniform annual assessment as a result of the allocation of a
25 portion of uniform annual assessment required herein to be

.174294.5

underscored material = new
[bracketed material] = delete

1 allocated to the trails program and related recreational
2 benefits. The mid-region council of governments shall oversee
3 the development of a management plan for the trails program,
4 which shall include the city of Albuquerque, Bernalillo county,
5 the village of Los Ranchos, the Albuquerque metropolitan arroyo
6 flood control authority, the state parks division of the
7 energy, minerals and natural resources department and the
8 middle Rio Grande conservancy district. The management plan
9 shall be completed within one year of July 1, 2009. The
10 management plan shall ensure implementation of a trails program
11 in conjunction and in harmony with the conservancy district's
12 statutory duties. The management plan shall ensure the
13 preservation of the natural values of and the cultural values
14 pertaining to the ditches within the conservancy district. The
15 mid-region council of governments shall hold public hearings on
16 the management plan. The conservancy district shall cooperate
17 with the operating entity in establishing and maintaining the
18 trails program and related recreational benefits adjacent to
19 its ditches and drains through execution of a joint powers
20 agreement. The joint powers agreement shall establish the
21 right of ingress and egress to, on and across conservancy
22 district property for the purpose of a trails program for both
23 the operating entity and for public use. The joint powers
24 agreement shall incorporate the management plan. In the event
25 the operating entity and the conservancy district fail to

.174294.5

1 negotiate a joint powers agreement within one year of July 1,
2 2009, the operating entity and the conservancy district shall
3 submit any unresolved disputes to binding arbitration."

4 - 6 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete